



DEPARTMENT OF PERSONNEL

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MEMO PERD #03/05

January 13, 2005

TO: Interested Parties

FROM: Jeanne Greene, Director
Department of Personnel

SUBJECT: PERSONNEL COMMISSION MEETING MINUTES

Attached are the minutes from the December 17, 2004, Personnel Commission meeting. These minutes have not been approved and are subject to revision at the next meeting of the Personnel Commission on March 25, 2005.

JG:sq

Attachment

cc: Agency Personnel Liaisons
Agency Personnel Representatives

**PERSONNEL COMMISSION
MINUTES OF DECEMBER 17, 2004 MEETING**

MEMO PERD # 03/05

I. Call to Order

Chairman Claudette Enus called the meeting to order at 8:10 a.m., December 17, 2004, at the Nevada Department of Transportation, Building B, Training Room A, 123 East Washington Avenue, Las Vegas, Nevada, and via video conferencing at the Nevada Department of Transportation, 3rd floor, Room 302, 1263 South Stewart Street, Carson City. Members present: Chairman Claudette Enus, and Commissioners David Sánchez, Jack Eastwick, Katherine Fox, and David Read. Also in attendance were Jim Spencer, Senior Deputy Attorney General, and Jeanne Greene and Shelley Blotter from the Department of Personnel.

II. *Adoption of Agenda

Commissioner Fox's motion to adopt the agenda was seconded by Commissioner Eastwick and unanimously carried.

III. * Adoption of Minutes of the previous meeting

The minutes of the October 1, 2004, meeting were unanimously approved.

IV. * Regulation Changes to Nevada Administrative Code, Chapter 284

Shelley Blotter, Chief, Technical Services Division, Department of Personnel, gave the Commission a brief explanation of the proposed regulation changes.

Section 1 - NAC 284.678 Statement of grievance: Contents; time to file.

The Department of Employment, Training and Rehabilitation, requested an amendment to allow the appointing authority or his designated representative and the employee to enter into an agreement to extend the time to file a grievance.

An additional amendment, proposed by Walter Tarantino, legal counsel for the Nevada Correctional Officers' Association, would allow for an appointing authority and a grievant to agree to extensions at each step of the grievance process. The extension would be limited to no more than 20 working days at each level of the grievance process. The limit is recommended to ensure the timely processing of grievances.

Ruth Edsall, Personnel Officer, Department of Employment, Training and Rehabilitation, commented she found the regulation problematic. Although she felt it was in the best interest of both the employee and management to resolve grievances as expeditiously as possible, there were, on occasion, circumstances beyond an employee's control which necessitated further extensions of the process at each level.

Alys Dobel, Personnel Officer, Department of Corrections, agreed with Ms. Edsall. She explained that it had been the Department's experience that there were many reasons why a grievance would require longer than 20 working days. She recommended revising verbiage to include an agreement between the grievant and employer as to how many days the parties believed the grievance would take to rectify and striking the reference to one 20-day extension to each level as indicated in subsection 4.

Ms. Blotter explained the impetus to the aforementioned reference was due to an extension being granted to the initial filing period. Since it had not been clearly set out in regulation, this was an attempt at clarification. A discussion ensued on the limitation of the regulations and Ms. Edsall suggested omitting the last sentence of subsection 4, "...In no case may an extension to the filing period be granted for more than 20 working days."

Chairwoman Enus stated rather than attempting to revise the regulation immediately, she wanted additional time to review the language and to revisit the issue at the next meeting. Ms. Greene recommended the Commission approve the regulation. She explained there had been a group of employees at the Department of Employment, Training and Rehabilitation that had filed a grievance and the department felt that the timeframe could be extended while trying to come to a resolution. When the grievance was received by the Employee Management Committee, it was determined the department did not have the authority to extend the timeframe and the dismissed the grievance. She did not want any additional employees to experience a similar situation.

Commissioner Sanchez's motion to approve NAC 284.678 as presented with the exception that the Commission strike the last sentence in both subsections 4 and 5, was seconded by Commissioner Eastwick and approved.

Section 2 – NAC 284.682 Appeal of grievance to higher level

The amendment proposed by Walter Tarantino, legal counsel for the Nevada Correctional Officers' Association, removes language in the section related to granting extensions to grievance deadlines. More general language regarding the issue has been proposed for inclusion in NAC 284.678.

Ms. Blotter explained this regulation was a companion to NAC 284.678 and consolidates the section regarding extensions under one regulation.

Commissioner Fox's motion to approve NAC 284.682 was seconded by Commissioner Sánchez and unanimously carried.

Section 3 - NAC 284.696 Unlawful discrimination.

This amendment, proposed by the Department of Personnel, allows an employee to report alleged discrimination directly to the Department of Personnel Sexual

Harassment/Discrimination Unit. Additionally, the Director of BCN Human Resources requested specific reference to the appropriate contact for UCCSN employees.

Additionally, the wording has been changed to clarify that the report of alleged discrimination would result in an investigation of the allegations.

Ms. Blotter stated this regulation clarified that first contact for investigation of reports of alleged discrimination would be with the newly established unit within the Department of Personnel.

Ms. Greene clarified for Commission Fox that although other agencies had affirmative action offices, complaints of sexual harassment and/or discrimination came to the Department of Personnel for investigation. Currently, it is practice for the University and Community College System to do their own investigations.

Commissioner Fox's motion to approve the proposed revisions to NAC 284.696 was seconded by Commission Sánchez and unanimously carried.

V *Discussion and possible action

Eligibility for reinstatement for sick leave for former EICON employees

Employee Nishon Burton, Department of Employment, Training and Rehabilitation (DETR), and former EICON employee, introduced herself and her co-workers. She then reiterated the issues that had transpired to lead to her second appearance before the Commission and explained that several employees had filed a grievance after several benefits, which had once been restored to them after their re-employment with the State, had been removed. After having mutually agreed upon an extension with DETR, the Employee Management Committee (EMC) had denied the grievance due to untimely filing. Ms. Burton indicated that the initial grievance included a request to restore not only sick leave, but also longevity, annual leave, and continuous service date – NAC 284.5405, NAC 284.282, NAC 284.182. With the Commission having restored the majority of the issues, only the issue of the reinstatement of sick leave remained. She stated that of the nine employees – herself included – who had had these benefits restored, she could not understand why only four employee's benefits had been taken away.

Jim Spencer, Senior Deputy Attorney General, Office of the Attorney General, stated that if the request was indeed for restoration of sick leave, the Personnel Commission was not the forum to discuss the matter and cautioned the Commission against granting individual rights.

Ruth Edsall, Personnel Officer, Department of Employment, Training and Rehabilitation, stated that she had met with Ms. Burton and her co-workers, along with staff from State Personnel, in an attempt to explain S.B. 37 and come to some agreement about what had occurred and what the grievants were entitled to. She

explained that they had entered into a mutual agreement to extend the time to file the formal grievance in hopes of coming to an informal resolution. DETR and the employees could not resolve the issue, so the employees filed a grievance with the EMC. The EMC determined, with the written advice from their legal counsel, that DETR did not have the authority to extend the initial filing period and the grievance would not be heard. Ms. Edsall clarified that it was not denied, per se, it just wasn't heard.

Mr. Spencer asked to be provided with a copy of the letter from the EMC, to which Ms. Edsall said she would do so. Mr. Spencer, continuing, stated that it was his understanding that Ms. Burton was denied a hearing by the EMC by a letter not from the EMC Chairman, but from a Deputy Attorney General, and he felt that to be incorrect. He addressed the Commissioners and committed to investigate the issue further.

Chairwoman Enus acknowledged Ms. Burton's frustration and stated that she preferred, if the Personnel Commission was not the correct forum in which to resolve this matter, that Ms. Burton and her co-workers would have been informed earlier in the process before it got to this point. She said she would defer to legal counsel on the issue at hand, but encouraged all parties involved to come to a resolution in an administrative, non-precedent setting fashion to make these employees whole again.

Commissioner Read voiced his displeasure that the issue had not been resolved before the meeting and wanted the matter settled within 30 days.

Mr. Spencer agreed Ms. Burton had the right to be heard and that she had been denied that right. He stated he would provide a report to the Commission within 30 days with regards to the procedures that were followed.

VI. *Approval of Occupational Group Study Revised Class Specifications

A. Fiscal Management & Staff Services occupational Group

1 Revenue Collections & Management subgroup

a. Tax Manager

This particular class, having been referred to as Tax Division Manager, was being retitled to Tax Manager to reflect the restructuring of the Department of Taxation. Minor updates were made to the duty statements, and the knowledge, skills and abilities. Based on input from subject matter experts, the minimum qualifications were modified to reflect a Bachelor's degree requirement and five years of experience in professional level accounting, auditing or tax administration programs, three years of which were at a supervisory level, or an equivalent combination of education and experience.

b. Tax Examiner series

The Tax Examiner class is currently used by Department of Motor Vehicles and the Department of Taxation. A trainee level was added to allow individuals in clerical accounting positions within the Department of Motor Vehicles to be trained to perform the duties of the Tax Examiner. The trainee level would be aligned two grades below the journey level at a grade 28. In addition, the number of years of experience required for Tax Examiner II has been increased from two to three years to align with the requirements of the Contributions Examiner II; and minor updates were made to the duty statements and the knowledge, skills and abilities.

c. Contributions Examiner series

The class consolidates the Contributions Unit Supervisor previously described on a separate class specification, with the Contributions Examiner II and I, and retitled it to Contributions Examiner III.

Commissioner Sánchez motion to approve the revised class specifications as presented was seconded by Commissioner Read and unanimously carried.

B. Mechanical & Construction Trades occupational group

1. Graphics, Printing & Reproduction subgroup

a. Photographic Lab Technician

This class was initially developed for positions in the Nevada Department of Transportation; however, currently only the Community College of Southern Nevada uses the series in support of media technology academic programs. As a result, the class specifications were modified to reflect the duties and responsibilities assigned to the positions at the community college. The series concept was revised to reflect the academic environment in which work is now performed, and the knowledge, skills and abilities were updated to reflect modern equipment and processes. The class concepts continue to describe trainee, journey and advanced journey levels.

Commissioner Fox's motion to approve the revised changes to the Photographic Lab Technician in the Graphics, Printing & Reproduction subgroup was seconded by Commissioner Sánchez. Ms. Blotter inquired if the motion included the Appraiser Technician which was proposed to be abolished. Commissioner Eastwick's motion to approve the occupational group changes, with the removal of the Appraiser Technician, was seconded by Commissioner Sánchez and unanimously carried.

VII. *Individual Classification Appeals

Kathy Rubin, Administrative Assistant III

Department of Public Safety, Highway Patrol Division

Ms. Rubin's request to be reclassified from an Administrative Assistant III to a Program Officer I, denied by State Personnel, prompted her appearance before the Commission. She explained that since December 21, 1998, her duties and responsibilities had changed several times. The most significant change was related to workers' compensation which had gone from logging data into a data base and assisting the insurance company, to producing a training manual to training all supervisors for the Department of Public Safety and the new Highway Patrol employees. She contended that the level of responsibility had increased in this particular duty. She further explained the aspects of her duties which included conducting training in the following: workers' compensation, restricted duty, Family and Medical Leave Act, catastrophic leave, compensation for temporary total disability of a police officer, and heart and lung examinations.

Ms. Rubin stated the duties she currently performs align with the series concepts for Program Officer I and asked the Commission to grant her request for reclassification.

Commissioner Sánchez referred to page two, paragraph two of the summary enclosed in the appellant's package. He inquired if Ms. Rubin was aware of any classes that were not in the proper classification. She replied she was aware of two such classes to which her position had been compared and that she didn't feel were in alignment with the duties she performed.

In response to questions from the Commissioners, Ms. Rubin explained she contributed information and made recommendations to aid an appointing authority in the decision-making process; produced training manuals, and wrote policies and procedures, which was a newly acquired duty as of January of 2004.

Beverly Ghan, Personnel Analyst, Department of Personnel, stated she conducted the study which included a desk audit and an interview with Ms. Rubin's supervisor. Ms. Rubin's position had been reviewed three times since 1999 and, each time, found to be consistent with the Administrative Assistant III.

Continuing, Ms. Ghan stated the workers' compensation duties currently indicated as new to the position, had been noted on the NPD-19 under Human Resources duties when the position was reviewed in 2001 and 1999. Only the degree of detail and the distribution of frequency percentages varied, the level of responsibility remaining the same. Comparisons to existing Administrative Assistant III and Program Officer I positions determined that the scope, complexity and responsibility associated with Mr. Rubin's duties do not align with the Program Officer I class. She stated that

reclassification at the current time would be inappropriate and the Commission was urged to deny the appeal.

Commissioner Sánchez commented that Ms. Rubin had stated that neither the training of new cadets nor writing of policies and procedures had been taken into consideration, to which Ms. Ghan replied writing policies and procedures was not a new duty to her position. With regards to training, Ms. Ghan stated it was not unusual for administrative assistants to train new employees in the area of expertise in which they work and that a thorough comparison of the Administrative Assistant III to the Program Officer I had been conducted.

Commissioner Sánchez's motion to deny the appeal was seconded by Commissioner Fox and unanimously carried.

Uncontested Classification Action Report

No vote required.

Special Reports

None.

X. Comments by the General Public

None.

Select Date for Next Meeting

Next meeting set for March 25, in Las Vegas.

*Adjournment

Commissioner Fox's motion to adjourn the meeting at 9:43 a.m. was seconded by Commissioner Sánchez and unanimously carried.